

9 May 1977

MEMORANDUM FOR: See Distribution

SUBJECT: S. 1446, The Financial Disclosure/Ethics
in Government Bill Submitted to the Congress
by President Carter on 3 May 1977

1. Last week your office was sent a copy of S. 1446. This bill, introduced on the President's behalf by Senator Ribicoff and pending before the Senate Governmental Affairs Committee, would require financial disclosure statements by all top (GS-16-18) Federal employees and military officers. Most employees would file the statements with a proposed Office of Government Ethics, to be established in the Civil Service Commission, there to be subject to limited public inspection. The bill, however, directs that employees of the CIA and the NSA and other intelligence personnel file statements with their agency or department head. These statements would not be subject to public disclosure, but they would include detailed information of employees' personal financial situations.

2. The bill goes on to require that the new Ethics Office have access to the financial statements filed with agency heads in order to verify compliance. The Office would randomly sample at least 5 percent of the statements so filed. The rules and regulations regarding compliance with the filing requirements of the bill would be developed by the new Ethics Office Director in consultation with the Attorney General. These rules and regulations would be promulgated by the President, and the Ethics Director would be required to "consult when appropriate" with the heads of agencies affected (section 202[c]). Every Executive agency is directed to furnish the Ethics Director whatever information he deems necessary in the performance of his duties, "except when prohibited by law" (section 203[2]).

3. Title III is a conflicts-of-interest section that restricts the circumstances under which ex-Federal employees may accept employment with private concerns with which they dealt while employed with the Government.

4. This bill was drawn up by the White House and coordinated by the Office of Management and Budget. OMB, however, failed to consult this Agency despite the fact that we submitted a lengthy response to OMB earlier this year on a draft Executive order that also would have required financial disclosure statements by Federal employees.

(Apparently, it was determined that the purposes of the draft order required legislation.) Thus, S. 1446 has been introduced with the Administration's apparent backing, without direct input from the DCI. It may, therefore, be somewhat touchy to propose amendments to the bill. At the same time, however, legitimate concerns certainly should be raised, if necessary, with OMB. To determine whether this will be necessary and, if so, to develop a plan of attack, it is requested that your office review this bill in order to identify any areas where it does not properly reflect the needs of the Agency and the Community and its employees. Questions that come to mind include:

a. Is there sufficient latitude for the DCI to lay down ground rules which the Ethics Director must follow in reviewing financial statements on file with the Agency?

b. Do the prohibitions in Title III on post-Government employment present problems in terms of cover and the confidentiality of the Agency's relationships with private businesses?

c. Does the caveat noted above in paragraph 2, relating to providing information to the Ethics Director "except when prohibited by law," provide a measurable degree of control over what must be provided by the DCI?

5. Please provide whatever information you think relevant to the above-mentioned issues, or any others that might come to mind in reviewing this bill, as soon as possible so we can move ahead, if necessary, when the proper opportunity arises. Thank you.

STATINTL

Office of Legislative Counsel

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